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EXAMINER

SALCE, JASON P

ART UNIT

PAPER NUMBER

2611

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11

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/955,691

Applicant(s)

HARKNESS ET AL.

Examiner

Jason P Salce

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-24, 26-33 and 48-50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24, 26-33 and 48-50 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 5, 8, 9 and 10.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1, 4-6, 24, and 31-33 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Thomas et al. (U.S. Patent No. 5,481,294).

Referring to claim 1, Thomas discloses a tuner to tune to the program (see element 70 in Figure 2C).

Thomas also discloses a meter coupled to the tuner to record a media link embedded in the program tuned by the tuner (see reference signature extractor 72 in Figure 2C and Column 12, Lines 45-51). The examiner notes that the signature extracted represents a portion of a program tuned to, and therefore is related (linked) to a piece of media (the television program).

Thomas also discloses a program identifier to identify the program tuned by the tuner based on the media link recorded by the meter (see Column 12, Lines 51-56 for data indicating the program source being extracted as well as the reference signature).

Referring to claim 4, Thomas discloses that the program identifier is arranged to identify the program directly from the media link (see Column 12, Lines 51-55).

Referring to claim 5, Thomas discloses that the program identifier is arranged to identify the program by accessing a content provider (see Column 19, Lines 9-11).

Referring to claim 6, see rejection of claim 1.

Referring to claim 24, Thomas discloses a tuner tunable to at least one of a plurality of channels and a meter coupled to the tuner (see rejection of claim 1).

Thomas also discloses that the meter is arranged to detect a media link embedded in a program carried in a channel tuned by the tuner and to extract a broadcast signature from the program (see Column 4, Lines 42-45).

Thomas also discloses a comparator arranged to generate a subset of reference signatures from a library of reference signatures based upon the media link, and to compare the broadcast signature extracted by the meter to the subset of reference signatures (see Column 7, Lines 36-61).

Referring to claim 31, see rejection of claim 4.

Referring to claim 32, Thomas discloses that the broadcast signature includes a channel and time at which the broadcast signature is extracted (see Column 12, Lines 53-54).

Referring to claim 33, see rejection of claim 4.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 7-10, 13-23, 26-29 and 48-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas et al. (U.S. Patent No. 5,481,294) in view of Killian (U.S. Patent No. 6,163,316).

Referring to claims 7-8, Thomas discloses all of the limitations in claim 1, but fails to teach that the media link is a URL (website) or a code referenced to a URL (hyperlink used to access the website). Killian discloses extracting a URL/code referenced to a URL in the VBI of a television signal (see Column 5, Lines 14-29 and Lines 39-42).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the program information transmitted in and extracted from the VBI, as taught by Thomas, using the URL data transmitted in the VBI, as taught by Killian, for the purpose of integrating television signals and Internet information (see Column 5, Lines 44-45 of Killian).

Referring to claim 9, see rejection of claims 7-8 and note that the URL data sent in the VBI can be "triggered" to receive a web page, therefore a URL is a trigger used to retrieve a web page over the Internet.

Referring to claim 10, Thomas discloses a tuner and a meter discussed in the rejection of claim 1.

Thomas also discloses that the meter captures first and second program identifying data identifying the program tuned by the tuner (see Column 12, Lines 51-53 for extracting a reference signature), wherein the first program identifying datum is a media link (again, see the rejection of claim 1) and the second program identifying datum is data other than a media link (see Column 12, Lines 53-56 for extracting data

indicating the corresponding program source).

Thomas fails to disclose that when the media link is activated, a request for information is made from a content provider via a network. Killian teaches receiving a URL via VBI television signal (see Column 5, Lines 39-42) and using this URL to receive a web page via the Internet (see Column 5, Lines 14-29).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the program information transmitted in and extracted from the VBI, as taught by Killian, for the purpose of integrating television signals and Internet information (see Column 5, Lines 44-45 of Killian).

Claim 13 corresponds to claim 10, with the additional limitation of a program identifier arranged to identify the program from the first or second identifying data. Thomas teaches Column 12, Lines 51-56, data indicating the program source being extracted as well as the reference signature.

Claim 14 corresponds to claim 13, with the additional limitation of the program identifier identifies the program by comparing the first or second program identifying data to the first or second reference identifying data. Thomas teaches this comparison at Column 12, Lines 45-51.

Claim 15 corresponds to claim 10, where Thomas discloses a signature is extracted from a program in the rejection of claim 1.

Claim 16 corresponds to claim 10, where Thomas teaches the additional limitation of keeping the second program-identifying datum only if the meter fails to acquire the first program-identifying datum (see Column 12, Lines 25-37).

Claim 17 corresponds to claim 10, where Thomas teaches the additional limitations in the rejection of claim 4.

Claim 18 corresponds to claim 10, where Thomas teaches the program identifier being arranged to identify the program (see rejection of claim 1) and Killian teaches activating the media link to initiate the request for information from the content provider (see again the rejection of claim 10).

Claim 19 corresponds to claim 10, where Thomas teaches the additional limitation in the rejection of claim 6.

Referring to claims 20-21, see rejection of claims 7-8, respectively.

Referring to claim 22, see rejection of claim 9.

Referring to claim 23, see rejection of claim 16.

Referring to claims 26-28, see rejection of claims 7-9, respectively.

Referring to claim 29, see rejection of claim 10 and also note that Killian detects closed captioning information at Column 4, Lines 29-35.

Referring to claims 48-50, see rejection of claim 7.

3. Claims 2-3 and 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas et al. (U.S. Patent No. 5,481,294) in view of Lu et al. (5,594,934).

Referring to claims 2-3, Thomas teaches all of the limitations in claim 1 and a meter that is arranged to detect media links from programs carried in the tuned channels, but fails to teach a scanning tuner for tuning to a plurality of channels. Thomas only teaches multiple tuners (element 70 in Figure 2C). Lu teaches a scanning tuner used to cycle through all channels that are available for tuning (see Column 6,

Art Unit: 2611

Lines 23-26). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the local metering site (element 34 in Figure 2A) that contains multiple tuners, as taught by Thomas, to include the scanning tuner, as taught by Lu, for the purpose of reducing the amount of tuner components in the system by only utilizing a single scanning tuner, reducing the cost of the system.

Referring to claims 11-12, see rejection of claims 2-3, respectively.

4. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas et al. (U.S. Patent No. 5,481,294 in view of Lert, Jr. et al. (U.S. Patent No. 4,677,466).

Referring to claim 30, Thomas discloses all the limitations in claims 22, but fails to teach comparing the broadcast signature to a reference signature selected from a library of reference signatures based upon a hash code. Lert, Jr. teaches using a hash code to search through a database of about 40,000 reference signatures (see Column 9, Lines 58-65). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the comparator, as taught by Thomas, using the comparison technique, as taught by Lert, Jr, for the purpose of identifying repetitively broadcast programs and the time of occurrence of the broadcast and the duration of broadcast (see Column 2, Lines 10-14 of Lert, Jr.).

### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within



TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P Salce whose telephone number is (703) 305-1824. The examiner can normally be reached on M-Th 8am-6pm (every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (703) 305-4380. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

April 5, 2004



VIVEK SRIVASTAVA  
PRIMARY EXAMINER